



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, मंगलवार, १५ नवम्बर, १९९४/२४ फातिक, १९१६

हिमाचल प्रदेश सरकार

विधि विभाग

अधिसूचना

शिमला-२, १५ नवम्बर, १९९४

संख्या एल० एल०आर०डी० (६) २४/९४-लेजिस्लेशन.—हिमाचल प्रदेश के राज्यपाल, भारत के संविधान के अनुच्छेद २०० के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए तारीख १२ नवम्बर, १९९४ को अनुमोदित हिमाचल प्रदेश नगर और ग्राम योजना (संशोधन) विधेयक, १९९४ (१९९४ का २०) को १९९४ का हिमाचल प्रदेश

२९९६ -- राजपत्र/९४-१५-११-९४—१,२८९.

(३९९९)

मूल्य : १ रुपया

अधिनियम संख्यांक 16 के रूप में संविधान के अनुच्छेद 348(3) के अधीन उसके प्राधिकृत पाठ सहित, हिमाचल प्रदेश, राजपत्र में प्रकाशित करते हैं।

आदेश द्वारा,
कुलदीप चन्द सुह,
सचिव।

1994 का अधिनियम संख्यांक 16.

हिमाचल प्रदेश नगर और ग्राम योजना (संशोधन) अधिनियम, 1994

(राज्यपाल महोदय द्वारा तारीख 12 नवम्बर, 1994 को पश्चा अनुमोदित)

हिमाचल प्रदेश नगर और ग्राम योजना अधिनियम, 1977 (1977 का 12) का और संशोधन करने के लिए अधिनियम ।

भारत गणराज्य के पैंतालीसवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो :—

1. इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश नगर और ग्राम योजना (संशोधन) अधिनियम, 1994 है ।

संक्षिप्त नाम ।

1977 का 12

✓ 2. हिमाचल प्रदेश नगर और ग्राम योजना अधिनियम, 1977 (जिसे इसमें इसके पश्चात् मूल अधिनियम कहा गया है) की धारा 15-A की उप-धारा (1) में “planning area under section 13” शब्दों के पश्चात् “or the special planning area under section 66” शब्द और “planning area or part thereof”, शब्दों के पश्चात् “or the special planning area or the part thereof, as the case may be” शब्द अन्तःस्थापित किए जाएंगे ।

धारा 15-A का संशोधन ।

✓ 3. मूल अधिनियम की धारा 34 में “one year” and “three years” शब्दों के स्थान पर क्रमशः “three years” and “five years” शब्द रखे जाएंगे ।

धारा 34 का संशोधन ।

✓ 4. मूल अधिनियम की धारा 39 की उप-धारा (1) में “five years”, शब्दों के स्थान पर “ten years” शब्द रखे जाएंगे ।

धारा 39 का संशोधन ।

5. मूल अधिनियम की धारा 39 के पश्चात् निम्नलिखित धाराएं 39-A और 39-B जोड़ी जाएंगी, अर्थातः—

धारा 39-A और 39-B का जोड़ना

“39-A. Power to stop development.—(1) Where any development in any area being commenced in contravention of the development plan or sectoral plan or without the permission, approval or sanction referred to in sections 15-A (2), 16 or 31 or in contravention of any condition subject to which such permission, approval or sanction has been granted—

(i) in relation to a planning area or a special planning area, the State Government or an officer of the State Government empowered by it in this behalf;

(ii) in relation to any other area within the local limits of a local authority, the competent authority thereof, may, in addition to any prosecution that may be instituted under this Act, make an order requiring the development to be discontinued on and from

the date of the service of the order, and such order shall be complied with accordingly.

(2) Where such development is not discontinued in pursuance of the order under sub-section (1), the State Government or the officer of the State Government or the competent authority, as the case may be, may require any police officer to remove the person by whom the development has been commenced and all his assistants and workmen from the place of development or to seize any construction material, tools, machinery, scaffolding or other things used in such development within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) Any of the things caused to be seized by the State Government or the officer of the State Government or the competent authority, as the case may be, under sub-section (2) shall, unless the owner thereof turns up to take back such things and pays to the State Government or the officer of the State Government or the competent authority, as the case may be, the charges for the removal or storage of such things, be disposed of by it or him by public auction or in such other manner and within such time as the State Government or the officer of the State Government or the competent authority thinks fit.

(4) The charges for the removal and storage of the things sold under sub-section (3) shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner of the things sold on a claim being made therefor within a period of one year from the date of sale, and if no such claim is made within the said period, shall be credited to the fund of the State Government or the competent authority, as the case may be.

(5) If any development in an area other than a planning area or the special area, has been commenced in contravention of the development plan or sectoral plan or without the permission, approval or sanction referred to in sections 15-A (2), 16 or 31 or in contravention of any condition subject to which such permission, approval or sanction has been granted and the competent authority has failed to make an order under sub-section (1) or, as the case may be, a requisition under sub-section (2), within the time that may be specified in this behalf by the State Government, the State Government may, after observing such procedure as may be prescribed by rules made in this behalf, direct any officer to make the order or requisition, as the case may be, and that officer shall be bound to carry out such direction and the order or requisition made by him in pursuance of the direction shall be complied with accordingly.

(6) After the requisition under sub-section (2) or sub-section (5) has been complied with, the competent authority or the officer to whom the direction was issued by the State Government under sub-section (5), as the case may be, may deputé by a written order a police officer or an officer or an employee of the State Government or local authority concerned to ensure that the development is not continued.

(7) Any person failing to comply with an order under sub-section (1), or as the case may be, under sub-section (5), shall be punishable with fine

which may extend to two hundred rupees for every day during which the non-compliance continues after the service of the order.

(8) No compensation shall be claimable by any person for any damage which he may sustain in consequence of the removal of any development under section 39 or the discontinuance of the development under this section.

(9) The provisions of this section shall be in addition to, and not in derogation of, any other provision relating to stoppage of building operations contained in any other law for the time being in force.

39-B. Power to seal unauthorised development.— (1) It shall be lawful for the State Government or the competent authority, as the case may be, at any time, before or after making an order for the removal or discontinuance of any development under section 39 or section 39-A to make an order directing the sealing of such development in the manner prescribed by rules, for the purposes of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such development.

(2) Where any development has been sealed, the State Government or the competent authority, as the case may be, may, for the purpose of removing or discontinuing such development, order the seal to be removed.

(3) No person shall remove such seal except—

- (a) under an order made by the State Government or the competent authority under sub-section (2); or
- (b) under an order of the appellate authority or the State Government made in an appeal under this Act.

AUTHORITATIVE ENGLISH TEXT

Act No. 16 of 1994.

THE HIMACHAL PRADESH TOWN AND COUNTRY PLANNING
(AMENDMENT) ACT, 1994

(AS ASSENTED TO BY THE GOVERNOR ON 12TH NOVEMBER, 1994)

AN

ACT

further to amend the Himachal Pradesh Town and Country Planning Act, 1977 (Act No. 12 of 1977).

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-fifth Year of the Republic of India, as follows :—

Short title. 1. This Act may be called the Himachal Pradesh Town and Country Planning (Amendment) Act, 1994.

Amendment of section 15-A. 2. In section 15-A of the Himachal Pradesh Town and Country Planning Act, 1977 (hereinafter called the principal Act), in sub-section (1), after the words “planning area under section 13”, the words “or the special planning area under section 66”, and after the words “planning area or part thereof”, the words “or the special planning area or part thereof, as the case may be,” shall be inserted.

12 of 1977

Amendment of section 34. 3. In section 34 of the principal Act, for the words “one year” and “three years”, the words “three years” and “five years” shall respectively be substituted.

Amendment of section 39. 4. In section 39 of the principal Act, in sub-section (1), for the words “five years”, the words “ten years” shall be substituted.

Addition of sections 39-A and 39-B. 5. After section 39 of the principal Act, the following sections 39-A and 39-B shall be added, namely:—

“39-A. *Power to stop development.*—(1) Where any development in any area being commenced in contravention of the development plan or sectoral plan or without the permission, approval or sanction referred to in sections 15-A (2), 16 or 31 or in contravention of any condition subject to which such permission, approval or sanction has been granted—

(i) in relation to a planning area or a special planning area, the State Government or an officer of the State Government empowered by it in this behalf,

(ii) in relation to any other area within the local limits of a local authority, the competent authority thereof, may, in addition to any prosecution that may be instituted under this Act, make an order requiring the development to be discontinued on and from the date of the service of the order, and such order shall be complied with accordingly.

(2) Where such development is not discontinued in pursuance of the order under sub-section (1), the State Government or the officer of the State Government or the competent authority, as the case may be, may require any police officer to remove the person by whom the development has been commenced and all his assistants and workmen from the place of development or to seize any construction material, tools, machinery, scaffolding or other things used in such development within such time, as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) Any of the things caused to be seized by the State Government or the officer of the State Government or the competent authority, as the case may be, under sub-section (2) shall, unless the owner thereof turns up to take back such things and pays to the State Government or the officer of the State Government or the competent authority, as the case may be, the charges for the removal or storage of such things, be disposed of by it or him by public auction or in such other manner and within such time as the State Government or the officer of the State Government or the competent authority thinks fit.

(4) The charges for the removal and storage of the things sold under sub-section (3) shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner of the things sold on a claim being made therefor within a period of one year from the date of sale, and if no such claim is made within the said period, shall be credited to the fund of the State Government or the competent authority, as the case may be.

(5) If any development in an area other than a planning area or the special area, has been commenced in contravention of the development plan or sectoral plan or without the permission, approval or sanction referred to in sections 15-A (2), 16 or 31 or in contravention of any conditions subject to which such permission, approval or sanction has been granted and the competent authority has failed to make an order under sub-section (1) or, as the case may be, a requisition under sub-section (2), within the time that may be specified in this behalf by the State Government, the State Government may, after observing such procedure as may be prescribed by rules made in this behalf, direct any officer to make the order or requisition, as the case may be, and that officer shall be bound to carry out such direction and the order or requisition made by him in pursuance of the direction shall be complied with accordingly.

(6) After the requisition under sub-section (2) or sub-section (5) has been complied with, the competent authority or the officer to whom the direction was issued by the State Government under sub-section (5), as the case may be, may depute by a written order a police officer or an officer or an employee of the State Government or local authority concerned to ensure that the development is not continued.

(7) Any person failing to comply with an order under sub-section (1), or as the case may be, under sub-section (5), shall be punishable with fine which may extend to two hundred rupees for every day during which the non-compliance continues after the service of the order.

(8) No compensation shall be claimable by any person for any damage which he may sustain in consequence of the removal of any development under section 39 or the discontinuance of the development under this section.

(9) The provisions of this section shall be in addition to, and not in derogation of, any other provision relating to stoppage of building operations contained in any other law for the time being in force.

39-B. Power to seal unauthorised development.—(1) It shall be lawful for the State Government or the competent authority, as the case may be, at any time, before or after making an order for the removal or discontinuance of any development under section 39 or section 39-A to make an order directing the sealing of such development in the manner prescribed by rules, for the purposes of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such development.

(2) Where any development has been sealed, the State Government or the competent authority, as the case may be, may, for the purpose of removing or discontinuing such development, order the seal to be removed.

(3) No person shall remove such seal except—

- (a) under an order made by the State Government or the competent authority under sub-section (2) ; or
- (b) under an order of the appellate authority or the State Government made in an appeal under this Act.”